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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,146	04/13/2004	Richard Gelles	KPR-W0029	4554

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EXAMINER

MULCAHY, PETER D

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,146

Applicant(s)

GELLES, RICHARD

Examiner

Peter D. Mulcahy

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over De Keyzer et al. US 6,455,627.
4. This patent shows adhesive compositions based on polymeric blends of block polymers and amorphous polyolefins, see the abstract. The claimed parameters of the block polymer are seen to be either expressly disclosed or inherently met by the block polymer described in the patent. The overlap will be outlined below:
5. (a) is polystyrene which is disclosed throughout the patent.
6. (b), (c) and (i) are molecular weight limitations which are suggested by the molecular weight recitation at column 4 lines 15+, (65,000 to 300,000).
7. (d) is not relevant because "n" does not need to be present.
8. (e) the styrene content is stated at column 4 line 19 as being 10 to 40 percent.

Art Unit: 1713

9. (f) is the vinyl content. The patent is silent as to the vinyl content. This is presumed inherently possessed or obvious from the polymer of the patent. Block polymers having the claimed vinyl content are widely known. Given the similarity in the structure and the overlap in properties, it is reasonable to presume that the polymers of the prior art would have a vinyl content that either anticipated or renders obvious that claimed.

10. (g) is not relevant as there is no lower limit and no indication that the prior art has more than 25 wt% of the lower molecular weight units.

11. (h) is not relevant as there is no lower limit and no indication that the prior art has more than 10% styrene double bonds subsequent to hydrogenation.

12. Rejections under 35 USC 102/103 are proper when the examiner cannot ascertain whether or not the prior art possess the claimed properties but has a reasonable basis for shifting the burden to applicant to show that the prior art does not possess properties that anticipate or render obvious those claimed.

13. In the event that one of ordinary skill in the art would not immediately envisage the claimed limitations from the cited art then the claimed invention is rendered prima facie obvious from the disclosure given that each of the claimed ingredients is disclosed and suggested to be used in combination as claimed.

14. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Keyzer et al US 6,455,627 as applied supra and in combination with De Keyzer et al. 6,465,557.

Art Unit: 1713

15. The '557 patent is clear as to the vinyl content of the block polymer, see column 4 lines 43+. The block polymer shares all the other properties as the block polymer of the '627 patent. It is reasonable to presume that the block polymer of the '627 patent is the same as the polymer of the '557 patent. If not then it would be obvious to use the polymer of the '557 patent in lieu of the polymer of the '627 patent given the art recognized advantages obtained when doing so.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter D. Mulcahy whose telephone number is 571-272-1107. The examiner can normally be reached on Mon.-Fri. 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Peter D. Mulcahy
Primary Examiner
Art Unit 1713

6/22/06

16.